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SIPDIS

SENSITIVE

DEPT FOR WHA/CEN AND WHA/PPC
USTR FOR JON ROSENBAUM AND BUD CLATANOFF
USDOL FOR ILAB: JORGE PEREZ-LOPEZ

E.O. 12958: N/A

TAGS: [ELAB](#) [ETRD](#) [PHUM](#) [GT](#)

SUBJECT: GSP WORKER RIGHTS: EMBASSY SUPPORTS CONSULTATIONS
OVER REVIEW

REF: STATE 35553

1. (SBU) Summary: Embassy believes that bilateral consultations would be as productive as a formal GSP review of Guatemalan worker rights. Although the labor rights situation is bad, it is not worsening and the GOG has in fact taken steps to protect labor rights since the last review was suspended. Furthermore, the political effects of a formal review are uncertain. The GOG is in an election year and is reeling from recent USG narcotics de-certification. Adding the threat of withdrawal of GSP benefits could provoke a backlash against USG "blacklisting." We suggest the Department support an alternative strategy of bilateral consultations to promote labor rights improvements. We have already begun this process by signaling key GOG interlocutors privately, and have built it into our Mission Program Plan. We welcome USTR participation in these consultations in the broader context of CAFTA negotiations. If decision is made to conduct a formal review, however, we will of course work to make it a success. End Summary.

The GOG has "Taken Steps"

2. (SBU) The AFL-CIO and International Labor Rights Fund petitions on Guatemala correctly identify major weaknesses in the protection of labor rights in Guatemala. Labor rights violations continue to be common and serious here, and must change for Guatemala to be a full partner under CAFTA. Most worrisome to us is the situation of impunity for those who attack labor leaders, the ineffective labor justice system, and particularly egregious cases of non-reinstatement of illegally fired workers. The petitions do not, however, take into account positive steps to protect worker rights taken by the GOG since the last USTR review ended in May 2001. These include:

-- creation of a Special Prosecutor's Office to Investigate Attacks on Union Members in 2001;

-- creation of a consensual National Plan for Occupational Health and Safety in 2002;

-- cooperation with the ILO's International Program to Eliminate Child Labor in several sectors of the economy;

-- revitalization of the Labor Ministry under ex-minister Godoy;

-- increased inspections, with the result that the first year of implementation of the Ministry's newly authorized fines totals more than the labor courts have imposed in 50 years;

-- resolution of the high-profile DYMEL dispute.

Movement on Issues Mentioned in Petitions

3. (SBU) In addition, several problems in the petitions have been resolved or require clarification. For example:

In the AFL-CIO petition;

-- The Jalapa Coca Cola's local bottler recently agreed to a collective bargaining agreement with its union;

-- Jalapa municipal workers struck in 2002, but returned to work after concessions from the mayor;

-- Labor relations at the Choi Shin-Cimatextiles maquila have normalized since management instituted regular meetings with its unions, which have failed to organize 25% of the workers;

-- With GOG support, ILO/IPEC has launched a new project to combat child labor in the Guatemala City municipal dump;

In the ILRF petition;

-- The petition incorrectly asserts that the Labor Ministry

has failed to use its new power to levy fines;

-- The SITRABI case in Morales, Izabal is resolved. Further attacks have occurred in the area over illegal land occupations, not labor rights;

-- The existence of "solidarity associations" does not violate the right to association;

-- Public sector doctors, health workers and banana workers held unofficial work stoppages in 2002, without GOG intervention; and

-- discrimination is not grounds for GSP review.

An Alternative Path To Achieve Review Goals

[14.](#) (SBU) We believe that aggressive bilateral consultations with the Labor Minister, Foreign Minister, Attorney General and Judicial Branch could achieve the same ends as a USTR review. These consultations, which we have already initiated, will focus on achieving progress in labor justice, investigation of unresolved crimes against union leaders, and reinstallation of illegally fired workers. New opportunities, including the new Labor Minister Victor Moreira's legislative priorities (e.g. to combat gender discrimination) could also be incorporated in our consultation efforts. As an Embassy, we are committed to make this strategy work and will highlight it strategy in our Mission Program Plan, which is about to be submitted.

Comment

[15.](#) (SBU) In sum, we think we can best advance labor rights through bilateral consultations. If, however, Washington agencies conclude otherwise, count on our full support.
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